

OCT 15 2002
PATENT & TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, Washington, DC 20531, on the date shown below.

Dated: October 10, 2002

Signature:


(Edward D. Pergament)

COPIES OF PAPERS
ORIGINALLY FILED

#3

Docket No.: OSTEONICS 3.0-380
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Wang et al.

Application No.: 10/071,667

Group Art Unit: 3732

Filed: February 8, 2002

Examiner: Not Yet Assigned

For: POROUS METALLIC SCAFFOLD FOR
TISSUE INGROWTH

RECEIVED

OCT 22 2002

BOX MISSING PARTS
Commissioner for Patents
Washington, DC 20231

OFFICE OF PETITIONS

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION AND PETITION
UNDER 37 C.F.R. § 1.47(a)**

Sir:

This is in response to the Notice to File Missing Parts dated April 2, 2002 and a Petition under 37 C.F.R. § 1.47(a).

The present application names three joint inventors. Two of the named inventors, Nicholas Nai Guang Dong and Michael Meehan, joined in the present application and executed a statutory Declaration under 37 C.F.R. § 1.63 ("the statutory Declaration"), which is enclosed herewith as Exhibit A. One of the named co-inventors, Kathy K. Wang, has refused to join in the application for patent by refusing to sign an oath or declaration.

In the enclosed statutory Declaration, the signature block of the non-signing inventor, Kathy K. Wang, is left blank. Pursuant to MPEP § 409.03(a), the enclosed statutory Declaration should be treated as executed by the signed inventors on their own behalf (under 37 C.F.R. § 1.63) and on behalf of Kathy K. Wang (under 37 C.F.R. § 1.64). In addition, Mr.

10/17/2002 AWONDAF1 00000155 121095 10071667

01 FC:1460

130.00 CH

Application No.: 10/071,667

Dong and Mr. Meehan signed a separate declaration ("the Dong/Meehan Declaration"), which is enclosed herewith as Exhibit B. The Dong/Meehan Declaration specifically states that the statutory Declaration was executed on behalf of Kathy K. Wang, as well as on behalf of Mr. Dong and Mr. Meehan themselves. It is respectfully requested that the statutory Declaration and the Dong/Meehan Declaration be accepted in complete response to the Notice to File Missing Parts.

Dr. Wang was presented with the application papers as filed, including specification, drawings and claims. Declaration of Gregory E. Plaskon ("the Plaskon Declaration") sets forth the circumstances surrounding Dr. Wang's refusal to join the application in detail. Mr. Plaskon is a Director of Intellectual Property for Howmedica Osteonics Corporation, the assignee of the present application, and has a first hand knowledge of the pertinent facts. The Plaskon Declaration, together with the related documentary evidence (Attachments I-V), is enclosed herewith as Exhibit C.

Pursuant to 37 C.F.R. § 1.47(a), the last known address at which the non-signing inventor Kathy K. Wang resides is as follows:

Dr. Kathy K. Wang
21 West Gate Road
Suffern, NY 10901

Also enclosed herewith is a Petition for extension of time to respond to the Notice to File the Missing Parts (Exhibit D).

It is maintained that the present Petition and Response, together with the papers enclosed herewith, meet the requirements of 37 C.F.R. § 1.47(a). Acceptance of the above-referenced application under 37 C.F.R. § 1.47 is respectfully requested.

Application No.: 10/071,667

The Commissioner is hereby authorized to charge the following fees to our Deposit Account No. 12-1095: the petition fee pursuant to Rule 1.17(h) for the present Rule 47(a) Petition (\$130), an oath or declaration surcharge pursuant to 37 C.F.R. § 1.16(e) (\$130), and the petition fee pursuant to 37 C.F.R. § 1.17(a) for extension of time to respond to the Notice to File the Missing Parts (\$1,960). In the event that any other fees are due in connection with this present petition, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 12-1095.

Dated: October 10, 2002

Respectfully submitted,

By 
Edward D. Pergament
Registration No.: 43,346
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorneys for Applicant

386576_1.DOC

COPY OF PAPERS
ORIGINALLY FILED

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/071,667	02/08/2002	Kathy K. Wang	OSTEONICS 3.0-380

CONFIRMATION NO. 4016

000530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

FORMALITIES LETTER



OC000000007765455

Date Mailed: 04/02/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

A copy of this notice MUST be returned with the reply.

RECEIVED

OCT 22 2002

OFFICE OF PETITIONS

[Signature]
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

10/17/2002 AWONDAF1 00000155 121095 10071667

02 FC:1051 130.00 CH